

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT COLUMBUS**

IN RE: OHIO EXECUTION  
PROTOCOL LITIGATION

: Case No. 2:11-cv-1016

- vs -

: Chief Judge Edmund A. Sargus, Jr.  
: Magistrate Judge Michael R. Merz

This document relates to:

Plaintiff Warren Henness

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**ORDER REGARDING DESIGNATION OF PRIOR EVIDENCE**

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This case is before the Court on Plaintiff Warren Henness's Request for Clarification (ECF No. 1977) and Defendants' Response (ECF No. 1986). Since the last written paper on the subject proposed a joint filing date of November 16, 2018, and neither party had filed on or after that date, the Court held an unrecorded telephonic status conference with attorneys Adam Rusnak, Allen Bohnert, and Zoe Saadey on November 26, 2018.

As a result of that conference, it is hereby ORDERED that not later than 5:00 p.m. on Wednesday, November 28, 2018, Plaintiff Henness and the Defendants will each file a designation of evidence previously admitted in this consolidated case and a motion to admit such evidence for the purpose of Henness's preliminary injunction hearing. The designations will be in the format used by prior Plaintiffs Phillips, Tibbetts, and Otte (Notice, ECF No. 863). Each such designation shall include the docket number and PageID number for the location of such testimony or document in the record of this or the prior case (*Cooey v. Strickland*, Case No. 2:04-cv-1156). If a document that was previously introduced at a prior evidentiary hearing will be referred to, or otherwise used, during the testimony to be presented in the December 2018 preliminary injunction

hearing, it shall be filed with the new exhibits and labeled accordingly (e.g., DX1, PI Hearing 2018).

The Magistrate Judge apologizes for his departure from past practice in the case, but believes the procedure outlined above is necessary to ensure that it is very clear to the Court of Appeals exactly what comprises the record on the Henness preliminary injunction motion.

November 26, 2018.

s/ *Michael R. Merz*  
United States Magistrate Judge